

Appl'n No: 10/528,686
Reply to Office Action dated September 22, 2006
Amdt dated December 1, 2006

REMARKS

Claims 1-12 remain in the application.

Claims 1, 9 and 10 stand rejected under 35 USC 102(b) as being anticipated by Milnar et al. (US Patent No. 6,648,393). Applicant respectfully traverses this rejection as improper.

The following is a quotation of the appropriate paragraphs of 35 USC 102 that form the basis for the Examiner's rejection made in the Office Action:

"A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States."

The '393 patent to Milnar et al. was filed in the US Patent Office on December 17, 2002 and issued on November 18, 2003.

However, Applicant's date of application for patent in the United States is based on a 35 USC 371 national stage filing of PCT application PCT/US03/29457, filed on September 22, 2003, which claims priority to and all the benefits of U.S. Provisional Patent Application No. 60/412,293 filed on September 20, 2002. The claim for priority was made by Applicant by filing a properly executed oath or declaration claiming priority to the provisional application and by amending the specification of the application to contain a specific reference to the prior application from which priority is claimed.

The effective filing date (date of application) of the present application is September 20, 2002. The date of publication of the '393 patent to Milnar et al. is November 18, 2003.

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Therefore, the '393 patent to Milnar et al. is not prior art under 35 USC 102(b). Specifically, Applicant's invention was not described in a printed publication more than one year prior to the date of application.

Therefore, Applicant submits that the rejection is improper and must be withdrawn. Accordingly, it is believed that the application is in condition for immediate allowance and Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Should the Examiner have any questions regarding the response to this Office Action, the Examiner is invited to contact the undersigned attorney for the applicant.

The Commissioner is hereby authorized to charge any underpayment or credit any overpayment of the above fees associated with this Communication to Deposit Account No. 50-1759.

Respectfully submitted,



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